

# Nebraska General Rules - 2005 Proposed Amendments

## 1.1 Introduction.

(d) **Definitions.** In construing these rules, the following definitions shall apply:

- (7) "Filing" or "file" shall mean "electronic filing" or "electronically file" unless otherwise specified. A paper document is deemed filed on the date the clerk's office receives and file stamps it rather than the date on which the clerk's office subsequently uploads it to the System.
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## 1.4 Assignment of Judges.

(a) **District Court.**

(4) **Related Cases.**

(A) **Notification.** Attorneys of record are charged with the duty of notifying the court that a case is or may be related to any other case, either pending or closed, in this court. Failure to inform the court may result in sanctions on counsel and parties. Accordingly,

- (i) At the time of filing, cases known to be related shall be noted as "related" on the civil cover sheet.
- (ii) Subsequent to filing, any attorney of record who becomes aware that a case is or may be related to any other case, either pending or closed, in this court must immediately inform the clerk of court and the chief judge by filing electronically a notice of related cases.

(B) **Assignments.** If a case is noted as related on the civil cover sheet when filed, the clerk will assign it to the district judge who handled the earlier pending or closed case. If the court, the clerk, or counsel become aware subsequent to filing that two or more cases are or may be related, the chief judge shall be informed as soon as possible. If the chief judge finds that the cases are related, the case or cases shall be reassigned to the district judge with the lowest numbered case unless good cause exists for not ordering the reassignment.

**(C) “Related” Cases Defined.**

- (i) Criminal cases are related when some or all of the charges in them arise from the same general set of events, whether or not any of the cases are closed. A superseding indictment or information is related to the indictment or information it supersedes.
  - (ii) Bankruptcy appeals are related when they involve some or all of the same property or the same debtor or debtors, whether or not any of the appeals are closed.
  - (iii) Civil cases are related when they involve some or all of the same issues of fact or arise out of the same transaction or involve the validity or infringement of the same patent, whether or not any of the cases are closed.
  - (iv) Civil cases are not related to criminal cases.
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**1.7 Practice of Law**

**(b) Ethical Standards.** The standards of conduct governing the members of the bar of this court are these:

**(1) Rules.** Counsel shall comply with the rules of this court; and

**(2) Conduct.** Counsel shall refrain from conduct unbecoming of a member of the bar.

**(A)** The court declines specifically to adopt particular codes of professional responsibility or particular codes of ethics promulgated by others.

**(B)** However, and in addition to any other material, the court may consult codes of professional responsibility or codes of ethics promulgated by others when determining whether a lawyer has engaged in conduct unbecoming of a member of the bar.

**(g) Appointment of Counsel.** A judge of this court may appoint any member of the bar of this court to represent indigent litigants. This is an ethical

obligation of attorneys. ~~in fulfillment of the underlying precepts of Canon 2 of the Code of Professional Responsibility.~~ Once such an appointment has been made, counsel will be expected to conduct the litigation in a professionally zealous manner. Such an appointment does not, however, require counsel to advance to the litigant the expenses of the litigation; these expenses remain the responsibility of the litigant, and counsel may contract with the litigant for their payment. Appointed counsel may seek authorization to incur expenses in accordance with the Criminal Justice Act, 18 U.S.C. § 3006A, or in accordance with the Amended Plan for Administration of the Federal Practice Fund. Appointed counsel shall not, however, contract with the litigant for the payment of attorney fees for professional services without the explicit prior approval of the court. Fees shall be available to appointed counsel only as prescribed by the court or, alternatively, by the statutory framework of the litigant's claim or defense. See, e.g., 18 U.S.C. § 3006A; 42 U.S.C. § 1988.

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## **1.8 Attorney Discipline.**

### **(d) Violation of Code of Professional Responsibility.**

- (3) **“Misconduct” Defined.** Acts or omissions by an attorney, acting individually or in concert with any other person or persons, ~~which that violate the Code of Professional Responsibility adopted by this court~~ ethical standards set out in NEGenR 1.7(b) constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney/client relationship

### **(e) Violation of Policy on Uncivil and Unprofessional Conduct.**

- (4) **Scope.** Recognizing that this policy on uncivil and unprofessional conduct is primarily aspirational, the reviewing judge shall be limited to (i) finding that the grievance or complaint is well-founded in whole or in part, and cautioning the offending party of the responsibility to act in a civil and professional manner as required by this rule; or (ii) finding that the complaint or grievance is not well-founded. Complaints or grievances under this rule and the resolution of them shall be informal. Unless the reviewing judge in the exercise of sound discretion decides otherwise, complaints or grievances under this rule and the resolution of them shall be confidential. The provisions of this rule on uncivil or unprofessional conduct do not limit or replace the authority or responsibility of the court or counsel to report or

initiate disciplinary proceedings for any alleged uncivil or unprofessional conduct which that violates this court's ~~Code of Professional Responsibility~~ ethical standards set out in NEGenR 1.7(b). Nor shall these provisions be construed to deny or govern this court's exercise of additional powers necessary to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Federal Rule of Criminal Procedure 42.

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## Nebraska Civil Rules - 2005 Proposed Revisions

### 1.1 **Definitions.** In construing these rules, the following definitions shall apply:

- (i) "Filing" or "file" shall mean "electronic filing" or "electronically file" unless otherwise specified. A paper document is deemed filed on the date the clerk's office receives and file stamps it rather than the date on which the clerk's office subsequently uploads it to the System.

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### 3.3 **Applications to Proceed in Forma Pauperis.**

- (c) **Multiple Plaintiffs.** If more than one person brings a civil action for which leave to proceed in forma pauperis is being requested, each person who is a plaintiff shall file an application, affidavit, and, if applicable, trust account information. In multi-plaintiff prisoner civil rights cases, the assigned judge may require each prisoner to pay the full district court filing fee; joinder of such plaintiffs will be allowed when otherwise appropriate under Federal Rule of Civil Procedure 20.

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### 5.3 **Privacy.** To comply with the policy of the Judicial Conference of the United States and the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899 (codified at 5 U.S.C. §§ 3701-3707 and scattered sections) and the policies of this court, the following privacy rules shall apply to all pleadings, documents, and exhibits filed in the district and bankruptcy courts.

**(a) Mandatory Redaction of Filed Documents.** Filing parties shall omit or, where inclusion is necessary, partially redact the following personal data identifiers from all pleadings, documents, and exhibits, whether filed electronically or on paper, unless the assigned judge orders otherwise.

- (1) Minors' names. Minors' initials shall be used.
- (2) Financial account numbers. The name or type of account and the financial institution where the account is maintained shall be used, but only the last four numbers of the account number shall be stated.
- (3) Social Security numbers. Only the last four numbers shall be used.
- (4) Dates of birth. Only the year shall be used.
- (5) Other data as permitted by order of the court.

**(b) Discretionary Redaction of Filed Documents.** In addition, the filing party may omit or, where inclusion is necessary, partially redact the following confidential information from all pleadings, documents, and exhibits, whether filed electronically or on paper, unless the assigned judge orders otherwise.

- (1) Personal identifying numbers, such as driver's license numbers.
  - (2) Home street addresses.
  - (3) Medical or psychological records, evaluations, treatments, and diagnoses.
  - (4) Employment history.
  - (5) Individual financial information.
  - (6) Proprietary or trade secret information.
  - (7) Information which may identify an individual cooperating with the government.
  - (8) Information regarding the victim of any criminal activity.
  - (9) National security information.
  - (10) Sensitive security information as described in 49 U.S.C. § 114(s).
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## **16.2 Pretrial Procedures in Civil Cases.**

### **(a) Matters to Be Completed Before Final Pretrial Conference.**

**(2) Proposed Final Pretrial Order.** Unless otherwise ordered by the court, counsel shall jointly prepare and present to the judge at the pretrial conference a proposed order, captioned "Order on Final Pretrial Conference," that includes each of the matters listed below. An acceptable form of the final pretrial order is available from the clerk's office or on the court's website, [www.ned.uscourts.gov](http://www.ned.uscourts.gov).

**G) Voir Dire.** In cases to be tried to a jury, counsel shall state any requests they may have regarding the conduct of juror examination. See Fed. R. Civ. P. 47(a) and NECivR 47.2(a).

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## **73.1 Magistrate Judges; Trial by Consent.**

**(b) Reassignment of Case to Magistrate Judge.** The clerk shall notify the parties in a case assigned to a district judge that they may consent to have a magistrate judge conduct any or all proceedings in the case, including the conduct of a jury or nonjury trial, and order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c). Such notice shall be provided as soon as practicable after the commencement of the action and before the case is first scheduled for trial. If all parties expressly consent on a form provided by the court to proceed before the magistrate judge, the clerk shall notify the assigned district judge of the parties' consent. After receiving the notice of the consent, the assigned district judge will consider the consent and reassign the case to the magistrate judge if appropriate.

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## **Nebraska Criminal Rules - 2005 Proposed Revisions**

### **1.1 Definitions.** In construing these rules, the following definitions shall apply:

**(j)** "Filing" or "file" shall mean "electronic filing" or "electronically file" unless otherwise specified. A paper document is deemed filed on the date the clerk's office receives and file stamps it rather than the date on which the clerk's office subsequently uploads it to the System.

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## 11.1 Change of Plea Hearing.

- (a) **Notice.** If a defendant decides to change a previously entered "not guilty" plea, the pro se defendant or the defendant's attorney shall notify the government attorney and the judge assigned to the case as soon as possible. If notice of a change of plea or a dismissal of the charges occurs too late for the court to avoid summoning a jury or incurring costs under a contract with an interpreter, the court may impose juror costs and interpreter costs, pursuant to Nebraska Criminal Rule 31.2.

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- 31.2 Taxation of Trial Costs.** Except for costs related to juries and interpreters, court costs will not be imposed in any criminal case unless the government timely files a verified bill of costs. The bill of costs may be filed at any time after fifteen (15) days following the conclusion of the trial or other proceeding in which costs are to be taxed and shall be filed no later than thirty days (30) prior to sentencing. The clerk will timely tax costs and notify the judge of such taxation so that the judge may consider the taxation at the sentencing hearing. Costs as used in this rule shall not include attorney's fees. If a plea of guilty or a dismissal of the charges comes too late for the court to avoid summoning a jury or incurring costs under contract with an interpreter, the court on its own initiative may impose juror or interpreter costs against one or more of the parties.